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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/787,205

Applicant(s)

WECHSEL, HILMAR

Examiner

THUY-VI NGUYEN

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6; 9-36; 40-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6; 9-36; 40-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the applicant's communication filed on 04/22/10, wherein:
Claims 1-6; 9-36; 40-47 are currently pending;
Claims 1, 9, 13, 20-21, 24, 31-32, 40-41 have been amended;
Claims 7-8; 37-39 have been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims **1-6, 9-36, 40-47** are rejected under 35 U.S.C. 103(a) as being unpatentable over HAUSER ET AL (US 6,536,659) in view of BLOOM (US 2002/0178074).

As for independent claim 1, HAUSER ET AL discloses a computer implemented method for managing a return of a product, the method comprising:

1) receiving at a first computer management system (a merchant computer) a return request for the product

{see at least figures 1, 4-6, col. 3, lines 45-48, col. 8, lines 10-22 discloses the merchant (14) or merchant web site 212 receive a request from customer for returning merchandise},

wherein the return request is for a quantity of the product great than one {see col. 4, lines 9-15, discloses a description of the merchandise that identifies items/quantity that should be included for the return request from customer}

2) determining whether the return request is authorized;

{see at least figures. 1, 4-6, col. 3, lines 56-63, col. 4, lines 1-15, col. 8, lines 23-44, and lines 59-67, col. 9, lines 1-3, discloses the merchant (14) or return authorization engine 216 of merchant determine *the authorization for the return of the merchandise*};

3) creating a first record in the first system in response to a determination that the return request is authorized, the first record including a return authorization number (RAN)

{see at least col. 8, lines 1-54 discloses the merchant create the return authorization barcode record and send it to the customer e.g. *when customer contact a merchant website for return product for requesting authorization to return merchandises previously purchased, if the reason for making a return is satisfies, the return authorization engine will automatically send return authorization bar code and prepaid shipping label to the customer by email or a printable attachment to an email.*

4) issuing (providing/sending), from a first computer implement system of a supplier, a return authorization information including authorization number (RAN) or bar code for the return request when the return request is determined to be authorized;

{see at least figures 4-6B, col. 7, lines 63-67, col. 8, lines 1-10 disclose a authorization bar code/RAN is *provided/issued to customer from a merchant 202/a* first management system; and col. 8, lines 30-60 merchant (14) or return authorization engine (213) as a first system that *send or provide or distribute the authorization bar code/or RAN to the customer*}

5) creating a second record in a second computer implemented system in response to receiving the RAN from the first system, the second record being a warehouse request comprising a pending delivery item which including the RAN, a product type, and the quantity of the product associated with the return request;

{see at least col. 4, lines 9-15, discloses the merchant (first system) who has authorized the return of merchandise transmit the return data to the central return service/return online Inc/warehouse (2nd system); and col. 4, lines 49-67; col. 5, lines 1-19 discloses *the return merchandise is received at the return Online Inc, scans the return authorization label applied to the shipping container of merchandise that has been received. Based upon merchant identified by the bar code on the shipping label, the container conveying the merchandise is sorted and transferred to an appropriate processor station. At the processor station, the contents of a shipping container are inspected and the processor verifies that the contents receives in the container match*

the expected contents, based upon data received from the merchant who authorized the return shipment; and

See also col.6, lines 18-49 discloses National Return Center or Central return facility 100 or Online Return Inc as a second computer management system wherein the record or information/data e.g. *a return authorization label including an authorization bar code/RAN is stored in the database on computer 56*}. As for the information about the pending delivery item include product type and quantity of the return product, this is inherently included in HAUSER ET AL since HAUSER discloses the second system verifies or determines whether the received return product is matched with the return product record that is received from the first system (merchant).

6) searching a database of the second system for the pending delivery item using a RAN associated with a product received at a warehouse;

{see at least see col.6, lines 18-49; col. 6, lines 18-49 discloses verified against the expected contents/product as indicated in the data stored in the database. And also col. 4, lines 49-64 discloses the processor verifies that the contents/product received in the container match the expected contents/product, based up on the data received from the merchant, the contents product is in association with the authorization code that identifying the merchant and the merchandise being returned}. This is inherently determine the searching database for the product return in order to verify or match the received product with the returned product associated with the authorization code stored in the database.

7) determining, based on searching the database, if the quantity of the product associated with the return request included in the second record matches a quantity of the product received at the ware house

See col. 4, lines 58-64 discloses *At the processor station, the contents of a shipping container are inspected and the processor verifies that the contents receives in the container match the expected contents, based upon data received from the merchant who authorized the return shipment*; and col. 6, lines 46-49 discloses the contents/product are verifying against the expected product as indicated in the data stored in the database.

10) updating the second record (entering new data about the return product) to reflect that the quantity of the product associated with the return request included in the second record matches the quantity of the product received at the warehouse.

{see figure 2, col. 2, lines 27-37; col. 5, lines 5-19 disclose information/data about the product return is entered into the central database of Central return facility to indicate that the merchandise has been received; and if the return product that was received match the expected merchandise, an electronic transmission/message is sent to merchant 14 indicating a complete return of the merchandise occurred}

Note, as for the term "first computer implemented management system" and "second computer implement management system", this is inherently included in the "merchant customer product return system" and "central return facility network system" {see Figs. 1-2}. Furthermore, the claim limitation doesn't exclude a first computer implemented management system and a second computer implemented management

system from being different system. While the claim recites that these systems are the systems of the supplier, the ownership of the system doesn't appear to make a manipulative different in a method step of "creating a record". Therefore, Hauser discloses "creating a record in the Central return facility comprising a database" which corresponds to the claimed limitation "creating a record in a second computer system of the supplier".

Also as indicated above, the limitation "updating a record" in the last step, this is inherently included in the features *"product return is entered into the central database to indicate that the merchandise has been received, and send the message to the merchant indicating a complete return of the merchandise occurred* {see figure 2, col. 2, lines 27-31; col. 5, lines 5-19}.

HAUSER ET AL discloses the claimed invention as indicated above. HAUSER ET AL further discloses the quantity or number of items to be returned from the customer, and this information/record is stored in the database system {col. 4, lines 2-23, col. 6, lines 18-49, col. 7, lines 19-37}. However, HAUSER ET AL doesn't mention the conditions of "splitting/dividing the record into a plurality of new records/files including the RAN and having different statuses, wherein the different statuses indicate return of a quantity of the product, when the quantity of the product associated with the return request included in the second record does not match the quantity of the product received at the warehouse"; and the condition of "re-combining the plurality of new records into the second record when the quantity of the product associated with return

request included in the second record matches the quantity of the product received at the warehouse"; (steps 8 and 9).

However, It is noted the splitting/dividing the records is considered as the conditional/optional language based on when the quantity of the product in the record does not match the quantity of the product received at the warehouse, then the splitting record will occur. In the other words, if all of the quantity/or full of the quantity is received at the same time, then the splitting/dividing record in to a Plurality of new records files will not occur or happen. This is similar to the step of "recombining" the plurality or records into a single record when all the quantity received product matches with the quantity of product in the second records. In the other words, if the quantity of product included in the second record doesn't match with the quantity of product received at the warehouse, then the action of re-combining all the records into the single record will not happen.

According to the MPEP, "language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation" (MPEP 2106.II. C).

Furthermore, **BLOOM** in par. 0099, figure 9A-9B discloses the well known feature of the splitting record of order in to different records or files in order to make adjustments for an Order Detail record 1202 to partially fill an order, where a select order an Order Detail record 1202 has a SKU/identifier number quantity greater than what can be filled. The program (312) creates a new Order Detail Record 1202 and splitting the Order Detail Quantity across the new record 1202 and the existing record

1202. The program (312) creates a new Order Detail record 1202 by copying all the values of the existing record 1202, except for quantity. *Status can be updated to either a value such as “retailer shipment-new” or “retailer shipment –back order” on the new Order Detail record 1202* depending upon the status of the existing record 1202.

Quantity of the existing record can be reduced by the quantity of the new record Status and Retailer shipment ID (status) on the existing record 1202 are not changed when the record 1202 is split. (This implies that only the status of existing record 1202 is not change, which means that the status of new record 1202 can be changed). For example BLOOM par. 0187, lines 30-79 indicates if the quantity of physical product is less than the quantity of product in the data records, *“a new Order Detail record 1202 can be created to split the quantity on the existing record 1202*, resulting in the existing record 1202 retaining its Package ID and Status and having an adjusted Quantity to match the actual physical quantity that was in the package and the new record 1202 having the same Order ID, a quantity equal to short adjustment quantity, a *Status value such as “destination RDC”* which indicates the package ID should be repacked.

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the created record of HAUSER ET AL by splitting the record order into different record as taught by BLOOM so that the adjusted quantity product in a new record would match with the actual physical quantity of product that was received/or received quantity of product and also would be easy to keep track of what item/product have been received {see Bloom, par. 0187, lines 43-79}.

HAUSER/BLOOM teaches the claimed invention as indicated above. However, HAUSER/BLOOM does not mention about the recombining the records into the single record when the quantity of the product in the record matches the quantity of the received product.

Since HAUSER/BLOOM teaches discloses the splitting the record into another records when the problem occur such as when the quantity of received product does not match with the original quantity of product stored in the record as stated as above. Therefore, it would have been obvious to one of ordinary skill in the art to recombine the all the records into a single record when the quantity of received product matches with the original quantity of product stored in the record in order to indicate the problem has been solved as well as saving the space in the data storage.

Also, as for the limitation splitting the second record into a plurality of new records including the RAN and having different statuses, wherein the different statuses indicate return of a quantity of the product ". Noted that the type of statuses data/information indicate return of a quantity of the product is considered as non functional descriptive material because it does not explicitly alter or impact the step/function of "splitting the record into a plurality of new records" and only means something to the human mind, thus given little patentable weight. In the other words, regardless what type of information contain in the records, the step/function "splitting the record into a plurality of new records" will not change or impact and the information/data indicate return of a quantity of the product does not patentably distinguish the claimed

invention from the prior art in terms of patentability. See *King Pharmaceuticals Inc. v. Eon Labs Inc.*, 95 USPQ2d 1833 (Fed. Cir. 2010).

As for dep. claim 2, which deals with the first management system is a customer relationship management system (CRM), this is taught in HAUSER ET AL, see at least figures 1, 4-6B disclose a merchant (14), merchant (202), or merchant website (212), and merchant call center 214 where the customer can directly contact.

As for dep. claim 3, which deals with the second management system comprises a ware house management (WM) system, this is taught in HAUSER ET AL, figures 2-3 "return central facility".

As for dep. claim 4, which deals with the information/data/or record about the delivery request, this is taught in HAUSER ET AL, col. 2, lines 27-38. Note: "the record/information or data of a delivery request" have been determined to be non-functional descriptive material (NFDm), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have otherwise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

As for dep. claim 5, which deals with the communicating information between the two parties, e.g. first and second management system utilizing the RAN, this is taught in HAUSER ET AL, col. 2, line 5-23, 21-57, figure 1-2.

As for dep. claim 6, which deals with providing a shipping label in response to approving the return request, the shipping label comprising the RAN, this is taught in HAUSER ET AL, figures 1-2, col. 4, lines 15-22.

As for independent claim 9, HAUSER ET AL discloses a computer implemented method for managing a return of a product, the method comprising:

1) authorizing, using a first computer-implemented management system a request from a customer to return a product

{see at least figures. 1, 4-6, col. 3, lines 56-63, col. 4, lines 1-15, col. 8, lines 23-44, and lines 59-67, col. 9, lines 1-3, discloses the merchant (14) or return authorization engine 216 of merchant determine *the authorization for the return of the merchandise*}

wherein the return request is for a quantity of the product great than one {see col. 4, lines 9-15, discloses a description of the merchandise that identifies items/quantity that should be included for the return request from customer}

2) creating at least one record in a second computer implemented system when the request for the product return is authorized, the at least one record being a warehouse request comprising a pending delivery item, the pending delivery item including a unique identifier, a product type, and the quantity of the product associated with the request;

{see at least col. 4, lines 9-15, discloses the merchant (first system) who has authorized the return of merchandise transmit the return data to the central return service/return online Inc/warehouse (2nd system); and col. 4, lines 49-67; col. 5, lines 1-19 discloses *the return merchandise is received at the return Online Inc, scans the*

return authorization label applied to the shipping container of merchandise that has been received. Based upon merchant identified by the bar code on the shipping label, the container conveying the merchandise is sorted and transferred to an appropriate processor station. At the processor station, the contents of a shipping container are inspected and the processor verifies that the contents received in the container match the expected contents, based upon data received from the merchant who authorized the return shipment; and

See also col.6, lines 18-49 discloses National Return Center or Central return facility 100 or Online Return Inc as a second computer management system wherein the record or information/data e.g. *a return authorization label including an authorization bar code/RAN is stored in the database on computer 56*}. As for the information about the pending delivery item include product type and quantity of the return product, this is inherently included in HAUSER ET AL since HAUSER discloses the second system verifies or determines whether the received return product is matched with the return product record that is received from the first system (merchant).

3) assigning the unique identifier to the product return;

{see at least figures 4-6B, col. 7, lines 63-67, col. 8, lines 1-10 disclose a authorization bar code/RAN is *provided/issued to customer from a merchant 202/a* first management system; and col. 8, lines 30-60 merchant (14) or return authorization engine (213) as a first system that *send or provide or distribute the authorization bar code/or RAN to the customer*}

4) associating the unique identifier with each record corresponding the product to be returned/received;

{see figures 1-2, 5-6B, col. 4, lines 16-56, col. 5, lines 5-20, col. 6, lines 18-49 disclose the transmitting the authorization bar code/unique identifier about the return product from the merchant system to the return facility system, the facility issues the return label including the bar code/unique identifier to customer, when the merchandise/product is returned at the facility, the bar code will be scanned to identify the merchant and merchandise being returned}

5) searching a database associated with the second systems for the pending delivery item using a unique identifier associated with a product received at a warehouse;

{see at least see col.6, lines 18-49; col. 6, lines 18-49 discloses verified against the expected contents/product as indicated in the data stored in the database. And also col. 4, lines 49-64 discloses the processor verifies that the contents/product received in the container match the expected contents/product, based up on the data received from the merchant, the contents product is in association with the authorization code that identifying the merchant and the merchandise being returned}. This is inherently determine the searching database for the product return in order to verify or match the received product with the returned product associated with the authorization code stored in the database.

6) determining, based on searching the database, if the quantity of the product associated with the return request included at least one record matches a quantity of the product received at the warehouse;

See col. 4, lines 58-64 discloses *At the processor station, the contents of a shipping container are inspected and the processor verifies that the contents receives in the container match the expected contents, based upon data received from the merchant who authorized the return shipment*; and col. 6, lines 46-49 discloses the contents/product are verifying against the expected product as indicated in the data stored in the database.

7) Exchanging/transmitting information regarding the product return between the pluralities of computer management systems utilizing the unique identifier;

{see at least figures 1, 5-6B, col. 2, lines 9-25, lines 49-59; col. 5, lines 5-19 col. 8, lines 29-54 disclose the transmitting of the RA data (218) about the product return from the merchant system (return authorization engine) to the national return center system. This indicates that the unique identifier is stored in both systems (merchant and central return facility). The facility issues the return label including the bar code/unique identifier to customer, when the merchandise/product is returned at the facility; the bar code will be scanned to identify the merchant and merchandise being returned. If the return product that was received/returned match the expected merchandise, an electronic transmission/message is sent to merchant 14 indicating a complete return of the merchandise occurred}.

Note, as for the term "management" in the "computer implement systems" this is inherently included in the "merchant customer product return system" and "central return facility network system" {see Figs. 1-2}.

HAUSER ET AL discloses the claimed invention as indicated above. HAUSER ET AL further discloses the quantity or number of items to be returned from the customer, and this information/record is stored in the database system {col. 4, lines 2-23, col. 6, lines 18-49, col. 7, lines 19-37}. However, HAUSER ET AL doesn't mention the conditions of "splitting/dividing the at lease one record in each of the second systems into a plurality of new records including the unique identifier and having different statuses, when the quantity of the product associated with the request included in the at least one record does not match the quantity of the product received at the warehouse".

However, It is noted the splitting/dividing the records is considered as the conditional/optional language based on when the quantity of the product in the record does not match the quantity of the product received at the warehouse, then the splitting record will occur. In the other words, if all of the quantity/or full of the quantity is received at the same time, then the splitting/dividing record in to a Plurality of new records files will not occur or happen.

According to the MPEP, "language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation" (MPEP 2106.II. C).

Furthermore, **BLOOM** in par. 0099, figure 9A-9B discloses the well known feature of the splitting record of order in to different records or files in order to make adjustments for an Order Detail record 1202 to partially fill an order, where a select order an Order Detail record 1202 has a SKU/identifier number quantity greater than what can be filled. The program (312) creates a new Order Detail Record 1202 and splitting the Order Detail Quantity across the new record 1202 and the existing record 1202. The program (312) creates a new Order Detail record 1202 by copying all the values of the existing record 1202, except for quantity. *Status can be updated to either a value such as "retailer shipment-new" or "retailer shipment –back order" on the new Order Detail record 1202* depending upon the status of the existing record 1202. Quantity of the existing record can be reduced by the quantity of the new record Status and Retailer shipment ID (status) on the existing record 1202 are not changed when the record 1202 is split. (This implies that only the status of existing record 1202 is not change, which means that the status of new record 1202 can be changed). For example BLOOM par. 0187, lines 30-79 indicates if the quantity of physical product is less than the quantity of product in the data records, *"a new Order Detail record 1202 can be created to split the quantity on the existing record 1202*, resulting in the existing record 1202 retaining its Package ID and Status and having an adjusted Quantity to match the actual physical quantity that was in the package and the new record 1202 having the same Order ID, a quantity equal to short adjustment quantity, a *Status value such as "destination RDC"* which indicates the package ID should be repacked.

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the created record of HAUSER ET AL by splitting the record order into different record as taught by BLOOM so that the adjusted quantity product in a new record would match with the actual physical quantity of product that was received/or received quantity of product and also would be easy to keep track of what item/product have been received {see Bloom, par. 0187, lines 43-79}.

Also, as for the limitation splitting the second record into a plurality of new records including the RAN and having different statuses, wherein the different statuses indicate return of a quantity of the product ". Noted that the type of statuses data/information indicate return of a quantity of the product is considered as non functional descriptive material because it does not explicitly alter or impact the step/function of "splitting the record into a plurality of new records" and only means something to the human mind, thus given little patentable weight. In the other words, regardless what type of information contain in the records, the step/function "splitting the record into a plurality of new records" will not change or impact and the information/data indicate return of a quantity of the product does not patentably distinguish the claimed invention form the prior art in terms of patentability.

See King Pharmaceuticals Inc. v. Eon Labs Inc., 95 USPQ2d 1833 (Fed. Cir. 2010) as applied to the method claims 1, 9, 13, and 20; and also See MPEP 2112.01 Section III for the product claims 21, 24, 31-32, 40-41.

III. PRODUCT CLAIMS – NONFUNCTIONAL PRINTED MATTER DOES NOT DISTINGUISH CLAIMED PRODUCT FROM OTHERWISE IDENTICAL PRIOR ART PRODUCT

Where the only difference between a prior art product and a claimed product is printed

matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. In re Ngai, **>367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004)< (Claim at issue was a kit requiring instructions and a buffer agent. The Federal Circuit held that the claim was anticipated by a prior art reference that taught a kit that included instructions and a buffer agent, even though the content of the instructions differed.). See also In re Gulack, 703 F.2d 1381, 1385-86, 217 USPQ 401, 404 (Fed. Cir. 1983)("Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentabilityThe critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate.").

As for claim 10, which deals with the second systems comprises at least one of a customer relationship management (CRM) system, a warehouse management (WM) system, this is fairly taught in HAUSER ET AL, see figures 1-2 (merchant system and central return facility system).

As for claim 11, which deals with the systems comprises the warehouse management (WM) system, this is fairly taught in HAUSER ET AL, see figures 1-2 (central return facility).

As for claim 12, which deals the systems comprises a logistics, execution and shipping (LES) management system; this is fairly taught in HAUSER ET AL {see figures 1-3}.

As for independent claim 13, HAUSER ET AL discloses a method for managing a product return, the method comprising:

1) assigning at least one return authorization number (RAN) to the product return;

{see figures 4-6B, col. 7, lines 63-67, col. 8, lines 1-10 disclose a authorization bar code/RAN is *provided/sent to customer* for returning product }

wherein the return request is for a quantity of the product great than one {see col. 4, lines 9-15, discloses a description of the merchandise that identifies items/quantity that should be included for the return request from customer};

2) creating, in a first database of a supplier, a return authorization record for the product return, the return authorization record comprising the RAN;

{see at least figures 4-6B, col. 7, lines 63-67, col. 8, lines 1-10 col. 8, lines 30-60 merchant website or return authorization engine (213) system provide the Return authorization data *include the authorization bar code/or RAN to the customer*}

3) creating, in a second database, a warehouse record for the product return, ware house record comprising a pending delivery item, the pending delivery item including the RAN, a product type, and the quantity of the product associated with the product return;

{see at least col. 4, lines 9-15, discloses the merchant (first system) who has authorized the return of merchandise transmit the return data to the central return service/return online Inc/warehouse (2nd system); and col. 4, lines 49-67; col. 5, lines 1-19 discloses *the return merchandise is received at the return Online Inc, scans the return authorization label applied to the shipping container of merchandise that has been received. Based upon merchant identified by the bar code on the shipping label, the container conveying the merchandise is sorted and transferred to an appropriate processor station. At the processor station, the contents of a shipping container are inspected and the processor verifies that the contents receives in the container match*

the expected contents, based upon data received from the merchant who authorized the return shipment; and

See also col.6, lines 18-49 discloses National Return Center or Central return facility 100 or Online Return Inc as a second computer management system wherein the record or information/data e.g. *a return authorization label including an authorization bar code/RAN is stored in the database on computer 56*}. As for the information about the pending delivery item include product type and quantity of the return product, this is inherently included in HAUSER ET AL since HAUSER discloses the second system verifies or determines whether the received return product is matched with the return product record that is received from the first system (merchant).

4) searching the second database using a RAN associated with a product received at a warehouse;

{see at least see col.6, lines 18-49; col. 6, lines 18-49 discloses verified against the expected contents/product as indicated in the data stored in the database. And also col. 4, lines 49-64 discloses the processor verifies that the contents/product received in the container match the expected contents/product, based up on the data received from the merchant, the contents product is in association with the authorization code that identifying the merchant and the merchandise being returned}. This is inherently determine the searching database for the product return in order to verify or match the received product with the returned product associated with the authorization code stored in the database.

5) determining, based on searching the second database, if the quantity of the product associated with the product return included in the warehouse record matches a quantity of the product received at the warehouse;

See col. 4, lines 58-64 discloses *At the processor station, the contents of a shipping container are inspected and the processor verifies that the contents receives in the container match the expected contents, based upon data received from the merchant who authorized the return shipment*; and col. 6, lines 46-49 discloses the contents/product are verifying against the expected product as indicated in the data stored in the database.

7) updating the return authorization and the warehouse record to include information associated with the RAN

{see figure 2, col. 2, lines 27-31; col. 5, lines 5-19 disclose information/data about the product return is entered into the central database of Central return facility to indicate that the merchandise has been received; and if the return product that was received match the expected merchandise, an electronic transmission/message is sent to merchant 14 indicating a complete return of the merchandise occurred}

Note: As for the limitation of" updating a record" in the last step, this is inherently included in the features "*product return is entered into the central database to indicate that the merchandise has been received, and send the message to the merchant indicating a complete return of the merchandise occurred* {see figure 2, col. 2, lines 27-31; col. 5, lines 5-19}.

Note as indicated above, the first database in the second step is inherently included in the figure 5-6B "merchant website and return authorization engine" network system.

Furthermore, the claim limitation doesn't exclude a first database and a second database from being different system. While the claim recites that these databases are from the supplier, the ownership of the system/database doesn't appear to make a manipulative different in a method step of "creating a record in a database'. Therefore, Hauser discloses "creating a record in the Central return facility comprising a database" which corresponds to the claimed limitation "creating a record in a second computer system of the supplier".

HAUSER ET AL discloses the claimed invention as indicated above. HAUSER ET AL further discloses the quantity or number of items to be returned from the customer, and this information/record is stored in the database system {col. 4, lines 2-23, col. 6, lines 18-49, col. 7, lines 19-37}. However, HAUSER ET AL doesn't mention the conditions of "splitting/dividing the warehouse record into a plurality of new records including a RAN and having different statuses, when the quantity of the product associated with the product return included in the warehouse record does not match the quantity of the product received at the warehouse".

However, It is noted the splitting/dividing the records is considered as the conditional/optional language based on when the quantity of the product in the record does not match the quantity of the product received at the warehouse, then the splitting record will occur. In the other words, if all of the quantity/or full of the quantity is

received at the same time, then the splitting/dividing record in to a Plurality of new records files will not occur or happen. According to the MPEP, "language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation" (MPEP 2106.II. C).

Furthermore, **BLOOM** in par. 0099, figure 9A-9B discloses the well known feature of the splitting record of order in to different records or files in order to make adjustments for an Order Detail record 1202 to partially fill an order, where a select order an Order Detail record 1202 has a SKU/identifier number quantity greater than what can be filled. The program (312) creates a new Order Detail Record 1202 and splitting the Order Detail Quantity across the new record 1202 and the existing record 1202. The program (312) creates a new Order Detail record 1202 by copying all the values of the existing record 1202, except for quantity. *Status can be updated to either a value such as "retailer shipment-new" or "retailer shipment –back order" on the new Order Detail record 1202* depending upon the status of the existing record 1202. Quantity of the existing record can be reduced by the quantity of the new record Status and Retailer shipment ID (status) on the existing record 1202 are not changed when the record 1202 is split. (This implies that only the status of existing record 1202 is not change, which means that the status of new record 1202 can be changed). For example BLOOM par. 0187, lines 30-79 indicates if the quantity of physical product is less than the quantity of product in the data records, *"a new Order Detail record 1202 can be created to split the quantity on the existing record 1202,* resulting in the existing

record 1202 retaining its Package ID and Status and having an adjusted Quantity to match the actual physical quantity that was in the package and the new record 1202 having the same Order ID, a quantity equal to short adjustment quantity, a *Status value such as "destination RDC"* which indicates the package ID should be repacked.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the created record of HAUSER ET AL by splitting the record order into different record as taught by BLOOM so that the adjusted quantity product in a new record would match with the actual physical quantity of product that was received/or received quantity of product and also would be easy to keep track of what item/product have been received {see Bloom, par. 0187, lines 43-79}.

Also, as for the limitation splitting the second record into a plurality of new records including the RAN and having different statuses, wherein the different statuses indicate return of a quantity of the product ". Noted that the type of statuses data/information indicate return of a quantity of the product is considered as non functional descriptive material because it does not explicitly alter or impact the step/function of "splitting the record into a plurality of new records" and only means something to the human mind, thus given little patentable weight. In the other words, regardless what type of information contain in the records, the step/function "splitting the record into a plurality of new records" will not change or impact and the information/data indicate return of a quantity of the product does not patentably distinguish the claimed invention from the prior art in terms of patentability. See King Pharmaceuticals Inc. v. Eon Labs Inc., 95 USPQ2d 1833 (Fed. Cir. 2010).

As for claim 14, which deals with the return authorization record comprises a plurality of return authorization items, this is fairly taught in HAUSER ET AL {see figures 1-3}.

As for claim 15, which deals with the return authorization item comprises a unique RAN, this is fairly taught in HAUSER ET AL {see figures 1-3}.

As for claim 16, which deals with the warehouse record comprises a plurality of pending delivery items, each of the pending delivery items being created for at least one of the return authorization items, this is fairly taught in HAUSER ET AL {see figure 2-3}

As for claim 17, HAUSER ET AL discloses wherein the second database is a warehouse management (WM) system {see figure 1-2}.

As for claim 18, which deals with information regarding to the return authorization record, e.g. product type and a quantity, this is fairly taught in HAUSER ET AL, see figures 1-3. Furthermore: "the record/information or data of the return authorization" have been determined to be non-functional descriptive material (NFD), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have otherwise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

As for claim 19, which deals with creating a shipping label based on the return authorization record and communicating the shipping label to a customer, this is fairly taught in HAUSER ET AL, {see figures 1-2, col. 4, lines 16-23}.

As for independent claims 20-21, basically these claims carry the similar steps as independent claims 9 and 13 above. Therefore, they are rejected for the same reason sets forth the rejected independent claims 9 and 13 as indicated above.

As for claims 22-23, which deals the first record is a return authorization record and the second record is a pending delivery record this is fairly taught in HAUSER ET AL see figures 2-3, 5-6B.

As for independent claim 24 which is about a computer readable medium containing instructions for carrying a method of managing a return of a product. This claim has the same limitation as independent claim 13 above. Therefore it is rejected as the same independent claim 13 sets forth above.

As for claims 25-26, which deals with the return authorization record comprises a plurality of return authorization items and a return authorization number, this is fairly taught in HAUSER ET AL {see figure 1-3}.

As for claim 27, which deals with delivery item is created for each return authorization item , this is fairly taught in HAUSER ET AL {see figure 1-3}.

As for claim 28, which deals with the second database is a warehouse management database, this is fairly taught in HAUSER ET AL {see figure 1-3}

As for claim 29, which deals with the return authorization record further comprises a product type and a quantity, this is fairly taught in HAUSER ET AL {see figure 1-3}.

Note: As for dep. claims 25-29, "the record/information or data of the return authorization" have been determined to be non-functional descriptive material (NFDM), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have otherwise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

As for claim 30, which deals with creating a shipping label based on the return authorization record and communicating the shipping label to a customer, this is fairly taught in HAUSER ET AL {see figure 1-3}

As for independent claim 31 which is about a computer readable medium including a memory containing instructions for carrying a method of managing a return of a product. This claim has the same limitation as independent claim 9 above. Therefore it is rejected as the same independent claim 9 sets forth above.

As for independent claim 32, which discloses a system for managing a return of a product, the system comprising a first computer with a first database, a second computer with a second database {see at least figures 4-5 discloses the merchant computer; and the return center computer} which configured to carry the similar steps

as the steps in independent claim 13. Therefore, it is rejected for the same reason sets forth the rejected independent claim 13 as indicated above.

As for dep. claims 33-35, basically this system claim have the same limitation as the dep. claims 25-27 above, they are rejected for the same reason sets forth the dep. claims 25-27 above.

As for claim 36, which deals with the pending delivery comprises a plurality of pending delivery items each corresponding to a return authorization item, this is fairly taught in HAUSER ET AL, figures 1-3. Note, "the record/information or data of the delivery items" have been determined to be non-functional descriptive material (NFDM), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have other wise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

As for independent claims 40-41, which discloses a system for managing a product return comprises a processor, a memory comprise instructions when executed by the processor cause the system to perform the similar steps of the rejected claims 9 and 13 above. Therefore, they are rejected for the same reason sets forth rejected independent claims 9 and 13 as indicated above.

As for claims 42-44, which deals with the communication between the customer and manufacture for the product return using the website for transmitting the label. This is taught in HAUSER ET AL, see figures 1-2, 5-6B

As for claim 45-47, which deals with the method of communication using the EDI, (electronic data interchange), Basic Application Interface (BAPI) and R/3 information object. This is inherently included HAUSER ET AL {figures 1-3, 5-6B}, wherein the first and second computers communicate using an EDI. Moreover, using these parameters for communicating between two systems is common, old and well known in the art.

Response to Arguments

1. Applicant's arguments filed on 12/07/10 have been fully considered but they are not persuasive.

A) In response to Applicant comment's on page 19 of the remark, Applicant disputes on the claim limitation which is a "conditional/optional" language as indicated in the office action *"splitting the second record into a plurality of new records the plurality of new records including the RAN and having different statuses, when the quantity of the product associated with the return request included in the second records does not match the quantity of the product received at the warehouse"*. Applicant also states that MPEP 2106.II.C does not exclude "conditional/optional" subject matter from consideration. The term "conditional" is not mentioned anywhere in section 2106 of the MPEP, much less in MPEP 2106.II.C. Language that suggests or makes optional but

does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. (emphasis added)

MPEP 2106.11.C goes on to list several such examples including: "statements of intended use or field of use," "adapted to" or "adapted for" clauses, "wherein" clauses, or "whereby" clauses. The claimed phrase of "splitting the second record [...] when [...]" (emphasis added) requires splitting the second record under a specified condition. The claimed phrase simply does not "[suggest] or [make] optional" within the meaning of MPEP 2106. The Office Action's contention to this effect is contrary to MPEP 2106.11.C and, therefore, should be withdrawn".

However this is not persuasive for the following reasons:

1) According to MEPEP 2106.II.C, Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

Even though the Examiner asserts that the claimed limitation "*splitting the second record into a plurality of new records the plurality of new records including the*

RAN and having different statuses, when the quantity of the product associated with the return request included in the second records does not match the quantity of the product received at the warehouse" does not recite one of phrase as shown in (A-B) above to indicate the limitation is an optional language, the list of these above examples is not intended to be exhaustive. The claimed limitation appears to be the conditional/optional language since it recited the condition when the quantity of the product in the second record does not match the quantity of the product received, and then the splitting record will occur. In the other words, when or in the condition if all of the quantity/or full of the quantity is received at the same time, then the splitting/dividing record in to a Plurality of new records files will not occur or happen. Therefore, this claimed limitation is interpreted to be a conditional or optional language.

2) In additional, the Examiner also applied the reference of BLOOM par. 0099, figure 9A-9B to teach the well known technique of splitting the product records of order into different records when the quantity of received product is less than the quantity of products that are stored in record as shown in the rejected independent claim 1 above.

B) In response to Applicant's argument on pages 20-21 of the remark, Applicant states a prima facie case of obviousness has not been established. The combination of HAUSER and BLOOM does not indicate "*return of a quantity of the product*" However this is not persuasive for the following reasons:

1) The Examiner respectfully submitted that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. The Examiner has presented evidence of corresponding claim elements in the prior art

and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention. Thus a prima facie case of obviousness has been established in the combination of HAUSER and BLOOM as shown in the rejection above.

2) Furthermore the Examiner notes that Applicant has amended the claim language to include the limitation "*wherein the different statuses indicate return of a quantity of the product*" in the step "splitting the second record into a plurality of new records the plurality of new records including the RAN and having different statuses, when the quantity of the product associated with the return request included in the second records does not match the quantity of the product received at the warehouse" in order to differentiate the claimed invention and the prior art. However the type of statuses data/information indicate "*return of a quantity of the product*" is considered as non functional descriptive material because it does not explicitly alter or impact the step/function of "splitting the record into a plurality of new records" and only means something to the human mind, thus given little patentable weight. In the other words, regardless what type of information contain in the records, the step/function "splitting the record into a plurality of new records" will not change or impact and the information/data indicate return of a quantity of the product does not patentably distinguish the claimed invention from the prior art in terms of patentability.

See King Pharmaceuticals Inc. v. Eon Labs Inc., 95 USPQ2d 1833 (Fed. Cir. 2010) as applied to the method claims 1, 9, 13, and 20; and also See MPEP 2112.01 Section III for the product claims 21, 24, 31-32, 40-41.

III. PRODUCT CLAIMS – NONFUNCTIONAL PRINTED MATTER DOES NOT DISTINGUISH CLAIMED PRODUCT FROM OTHERWISE IDENTICAL PRIOR ART PRODUCT

Where the only difference between a prior art product and a claimed product is printed matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. In re Ngai, **>367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004)< (Claim at issue was a kit requiring instructions and a buffer agent. The Federal Circuit held that the claim was anticipated by a prior art reference that taught a kit that included instructions and a buffer agent, even though the content of the instructions differed.). See also In re Gulack, 703 F.2d 1381, 1385-86, 217 USPQ 401, 404 (Fed. Cir. 1983)("Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentabilityThe critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate.").

Since HAUSER ET AL doesn't disclose a condition of splitting the records into a plurality of new records when the quantity of the product in the second record does not match the quantity of the product received". In the similar methods of receiving product or merchandise, determining the quantity of the received product to see whether the received product match with the product stored in the record, the reference of BLOOM has been applied to teach the well known technique of splitting the product records of order into different records when the quantity of received product is less than the quantity of products that are stored in record. Also the new records and the existing record have different statues. For instance, in par. 0099, figure 9A-9B Bloom discloses the well known feature of the splitting record of order in to different records or files in order to make adjustments for an Order Detail record 1202 to partially fill an order, where a select order an Order Detail record 1202 has a SKU/identifier number quantity greater than what can be filled. The program (312) creates a new Order Detail Record

1202 and splitting the Order Detail Quantity across the new record 1202 and the existing record 1202. The program (312) creates a new Order Detail record 1202 by copying all the values of the existing record 1202, except for quantity. *Status can be updated to either a value such as "retailer shipment-new" or "retailer shipment –back order" on the new Order Detail record 1202* depending upon the status of the existing record 1202. Quantity of the existing record can be reduced by the quantity of the new record Status and Retailer shipment ID (status) on the existing record 1202 are not changed when the record 1202 is split. (This implies that only the status of existing record 1202 is not change, which means that the status of new record 1202 can be changed).

In addition, BLOOM par. 0187, lines 30-79, figure 9A-B indicates the changing of status in the new record, for instance: if the quantity of physical product is less than the quantity of product in the data records, *"a new Order Detail record 1202 can be created to split the quantity on the existing record 1202*, resulting in the existing record 1202 retaining its Package ID and Status and having an adjusted Quantity to match the actual physical quantity that was in the package and the new record 1202 having the same Order ID, a quantity equal to short adjustment quantity, a *Status value such as "destination RDC"* which indicates the package ID should be repacked. In other words, if the quantity of received product does not match the quantity product in the record, then the new record is created, having the same Order ID but different number of quantity and different status than the status in the existing record. For example, status in existing record indicates "retailer shipment-new", while the status in a new record

shows "destination RDC". Therefore, the combination of HAUSER/BLOOM teaches the claimed limitation "splitting.....warehouse" as indicated in the rejection above.

C) In response to Applicant's comment on pages 21-22 of the remark, Applicant states that "the Office has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed combinations and the prior art. Moreover, the Final office Action has provided no motivation for one of ordinary skill in the art to modify the teachings of the prior art to achieve the claimed combinations" is noted. However, the Examiner disagrees with this statement. BLOOM and HAUSER teaches the similar methods of receiving product or merchandise, determining the quantity of the received product to see whether the received product match with the product stored in the record. For example, Hauser discloses the returning product process wherein the record /information/data about the product return include the unique identifier/return authorization label is entered into the central database of Central return facility to indicate that the merchandise has been received {see Hauser col. 2, lines 27-31; and col. 6, lines 18-49}; while Bloom has been applied to teach the well known technique of splitting the product records of order into different records when the quantity of received physical product is less than the quantity of products that are stored in record {see Bloom, par. 0187, lines 43-79}.

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the created record of HAUSER ET AL by splitting the record order into different record as taught by BLOOM so that the adjusted quantity product in a new record would match with the actual physical quantity of product that

was received/or received quantity of product and also would be easy to keep track of what item/product have been received {see Bloom, par. 0187, lines 43-79}. For the reason as indicated above, the Office Action has provided a motivation to one of ordinary skill in the art to modifying the teachings of the prior art to achieved the claimed limitation

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689

